

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Criminal Case No. 91-80936-12
Honorable Patrick J. Duggan

KARL WINGO,

Defendant.

**OPINION AND ORDER DENYING DEFENDANT'S MOTION PURSUANT TO
FEDERAL RULE OF CIVIL PROCEDURE 60(b)(4)**

At a session of said Court, held in the U.S.
District Courthouse, Eastern District
of Michigan on April 15, 2010.

PRESENT: THE HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT JUDGE

This matter presently is before the Court on Defendant Karl Wingo's motion for relief from judgment pursuant to Federal Rule of Civil Procedure 60(b)(4). Defendant seeks relief from this Court's March 22, 2010 opinion and order denying his motion for reconsideration of this Court's January 27, 2010 opinion and order denying his motion to compel answer to motion for resentencing and to amend pursuant to Federal Rules of Civil Procedure 15(a). Defendant contends that he was denied due process with respect to his motion for reconsideration because the Government failed to serve him with a copy of its response to the motion. For the reasons that follow, the Court denies Defendant's Rule 60(b) motion.

Defendant filed his motion for reconsideration on February 8, 2010. This Court issued a notice on February 12, 2010, informing the parties that it would permit the Government to file a response to the motion, if it wished to do so. The Government filed a response on February 26, 2010; however, the Government did not serve Defendant, personally. Instead, a copy of the Government's response was electronically served on attorney David Tholen, who is representing Petitioner on appeal.

There is no right to file a reply brief in support of a motion for reconsideration. In any event, Petitioner has received an adequate opportunity to be heard with respect to the issues raised in his motion for reconsideration. Petitioner raised the same issues in his motion for reconsideration that he raised in previous motions. The Government responded to those motions and Petitioner had the opportunity to reply.

Accordingly,

IT IS ORDERED, that Defendant's motion pursuant to Federal Rule of Civil Procedure 60(b)(4) is **DENIED**.

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

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